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3 NATIONAL INDIAN GAMING COMMISSION

4 CLASS II CLASSIFICATION STANDARDS

5 GOVERNMENT-TO-GOVERNMENT CONSULTATION MEETING

6 WITH THE COMANCHE NATION

7

8 HELD IN OKLAHOMA CITY, OKLAHOMA

9 ON AUGUST 8, 2006

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24 REPORTED BY: TRENA K. BLOYE, CSR

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1 APPEARANCES

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4 NATIONAL INDIAN GAMING COMMISSION:

5 Philip N. Hogen, Chairman

6 Cloyce "Chuck" V. Choney, Commissioner

7 Natalie Hemlock, Special Assistant to the

8 Commission

9 Penny Coleman, Acting General Counsel

10 Michael Gross, Senior Attorney

11 John R. Hay, Staff Attorney

12 Joseph M. Valandra, Chief of Staff

13 Tim Harper, Region Chief, Region V

14 Marcy Pate Olber, Senior Field Investigator

15 Jeanette Ross, Field Investigator

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17

18 ON BEHALF OF THE COMANCHE NATION:

19 Wallace Coffey, Chairman

20 Clyde Narcomi

21 Oscar Codopony

22 Jarrett Jackson

23 John Plata, Attorney

24 William Norman, Attorney

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1 CHAIRMAN HOGEN: Welcome to this

2 Class II. Consultation meeting. We are

3 recording this meeting. It's going to be a

4 matter of public record. It's going to

5 eventually be on our website. And also there

6 will be a transcript made of this meeting.

7 You can obtain this transcript by request.

8 And some of the -- we get a feeling there is

9 quite of a few people that are requesting all

10 of the transcripts subsequent to any further

11 meetings that we have scheduled.

12 So, for the record, I want to

13 introduce Phil Hogen. He's the chairman of

14 the National Indian Gaming Commission. I'm  
15 Chuck Choney, commissioner. Seated next to  
16 Phil is Penny Coleman. She's our acting  
17 director of the Office of General Counsel.  
18 Sitting next to her is Michael Gross. He's  
19 the senior attorney in the OGC. And on the  
20 far left is Tim Harper. He's our region  
21 director out of Tulsa.

22 Seated next to me is Joe Valandra,  
23 he's our chief of staff. And Jeanette Ross,  
24 senior investigator from Tulsa. And John Hay,  
25 also another senior attorney from the Office

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1 of General Counsel. And joining us in a few  
2 minutes will be Natalie Hemlock. She's a  
3 special assistant to the Commission.

4 And if you can identify yourselves  
5 for the record. Oh, one other thing. If at  
6 any time during the proceedings you need to  
7 discuss any other matter pertaining to your  
8 tribe on gaming matters, and it doesn't have  
9 anything to do with Class II, let us know and

10 we will have to go off the record.

11 So if you can identify yourselves

12 for the record.

13 CHAIRMAN COFFEY: Let me take the

14 initiative here. My name is Wallace Coffey.

15 I'm a chairman of the Comanche Nation. I just

16 completed my third term as Chairman of the

17 Comanche Nation. It's been exciting,

18 rewarding, but sometimes it has it's

19 obstacles.

20 To my far right is Jarrett

21 Jackson. Jarrett is the acting executive

22 director of our Comanche Nation Gaming

23 Commission. Next to him is John Plata. John

24 Plata is our in-house attorney. Both of these

25 two gentlemen are members of the Comanche

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1 Nation. And they bring their expertise as

2 well as their education and a lot of

3 contributions they have already made to our

4 Comanche Nation.

5 Next to me is William Norman of

6 Hobbs, Strauss, Dean & Walker here in Oklahoma  
7 City. To my left is Oscar Codopony. Oscar is  
8 a chairman of our Comanche Nation Gaming  
9 Commission. To our extreme left over here is  
10 Mr. Clyde Narcomi. Mr. Narcomi is a member of  
11 our Comanche Business Committee.

12 Let me begin by asking you, what  
13 is the specific purpose of Class II  
14 regulations?

15 CHAIRMAN HOGEN: Well, the  
16 congress, in the Indian Gaming Regulatory Act,  
17 divided gaming up into categories. They set  
18 up a regulatory scheme. They said the tribes  
19 will be the primary regulators. They will do  
20 the heavy lifting. And they created the  
21 National Indian Gaming Commission and gave us  
22 a number of tasks, one of which was to provide  
23 oversight over this Class II gaming. And they  
24 also directed that we promulgate some federal  
25 standards with respect to what they had

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2           They said that the Class II gaming  
3   could use computers and electronic and  
4   technologic aids to play those games, bingo  
5   and pull-tabs, and such things. They went on  
6   to say that Class III gaming will be  
7   everything that isn't Class II, basically,  
8   including electronic facsimiles of games of  
9   chance and slot machines of any kind.

10           So, what we are trying to do in  
11   this exercise is to better distinguish the  
12   difference between what those technologic aids  
13   are that you can play without a compact and  
14   those electronic facsimiles for which you have  
15   to have a compact.

16           In trying to get to the right  
17   place there, we are looking at the act itself  
18   and the language it employed. We look at the  
19   legislative history, what congress said in its  
20   report and its debate and those things. And  
21   we are looking at the court cases that have  
22   been decided since that time that have  
23   interpreted what IGRA, the Indian Gaming  
24   Regulatory Act, said, as well as the Johnson

25 Act, which was on the books since 1951, which

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1 said you can't have gambling devices in Indian

2 country. IGRA said you could if you had a

3 compact.

4 Sorting out what are those

5 technologic aids that you don't need a compact

6 for and what are still gambling devices or

7 electronic facsimiles of games of chance, in

8 short, is where we are trying to go. That's

9 kind of a long-winded answer. I hope it

10 addressed your concern. But that's what I

11 understand.

12 CHAIRMAN COFFEY: Well, let me

13 make my presentation. First of all, I want to

14 welcome you to Oklahoma. As you know, we are

15 heavily impacted by these regulations. As

16 many casinos as we have, 84, probably more,

17 each one of them are doing pretty good. In

18 southwest Oklahoma we have two large and two

19 small casinos.

20 But let me begin by my own

21 specific mission as a chairman of the tribe,  
22 realizing that in 2003 we had a significant  
23 number of unemployment. I did the statistics  
24 with regard to the amount of vehicles and the  
25 year of the vehicles that our tribal members

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1 drive. They average '96 to '98 vehicles in  
2 2003. These vehicles probably had less than  
3 two, maybe three years life expectancy on  
4 them.

5 So we made a strong initiative to  
6 increase our economic base by looking at  
7 health insurance for employees. We did an  
8 assessment with regard to local salaries in  
9 the community. We looked at cashiers and what  
10 their salary base is. We looked at other  
11 positions that are, you know, integral to our  
12 gaming establishment as well as what is in the  
13 local community of southwest Oklahoma.

14 Once we realized that we were  
15 below the standards with regard to what the  
16 city and the community in southwest Oklahoma

17 pay their employees, we increased the wages  
18 for our employees. Currently, at that time we  
19 had 580 employees. Currently, we have 1485  
20 employees.

21 So we have tripled our employment,  
22 by virtue of the fact we are a good place for  
23 employment by utilizing health benefits for  
24 the employee, by getting them to realize that  
25 a license is something that they can have for

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1 a career. We have very limited turnover.  
2 There are some indications with regard to some  
3 of the changes that we have to look at, you  
4 know, to improve our position within our  
5 community.

6 But as the chairman of the tribe,  
7 I had a personal mission. My personal mission  
8 is to create a more positive atmosphere in  
9 which our Comanche people can live, work, and  
10 play. Now, when you drive a vehicle that's a  
11 '96 and '98 vehicle in southwest Oklahoma,  
12 it's a junk car. And I have recognized that

13 probably this past year we ask our Tax  
14 Commission, those individuals that have  
15 purchased their tags, what is the average  
16 vehicle that we are driving now today? And  
17 the average vehicles are 2003s, 2004s. And we  
18 do have some new vehicles.

19 So, what I'm saying is as a result  
20 of that personal mission, the economy of our  
21 Indian household has been increased. The  
22 economy of southwest Oklahoma has been  
23 enhanced, greatly enhanced. We are currently  
24 the largest employer in Cotton County,  
25 probably the third, or second or third or

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1 fourth largest employer in Comanche County, a  
2 community of probably 140,000 people.

3 So, my next effort was to visit  
4 with the local community leaders, from the  
5 mayor to the Chamber of Commerce, to the Fort  
6 Sill military reservation, Chief of Staff, as  
7 well as the Major General himself, the college  
8 president, a wide range of individuals who are

9 in the industry in Oklahoma, retail as well as  
10 government. We sat down like this and had a  
11 dinner. The time has come for it to no longer  
12 be us and the Comanches or us and them  
13 Indians. The time has come for we. What can  
14 we do together to sustain an economy that has  
15 been beneficial for the State of Oklahoma.

16 We all came to an agreement, in  
17 particular the mayor. And I ask the mayor,  
18 "What is your vision for southwest Oklahoma or  
19 for Lawton?" He said, "Well, my vision for  
20 southwest Oklahoma is that when a young person  
21 graduates from Cameron College that there may  
22 be a job opportunity waiting for them without  
23 them having to relocate to another community  
24 or to another state."

25 With that in mind we worked really

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1 hard to establish our Comanche Nation College  
2 as a viable entity for Comanche employment.  
3 Just this past week on Wednesday we had an  
4 LPN, public health nursing program, because

5 that's critical within our social issues that  
6 we have within the tribe. They went to --  
7 came to Oklahoma City to take their boards for  
8 certification as LPNs.

9           We received a Department of Labor  
10 grant to train CLEET officers within our  
11 securities systems within the casinos as well  
12 as within southwest Oklahoma for positions in  
13 law enforcement. We have probably, anywhere  
14 from 250 to 350 Indian men and women who are  
15 now CLEET certified and who will serve in our  
16 gaming establishments.

17           That puts them at a higher  
18 professional level than a local law  
19 enforcement or a police officer within the  
20 local community, because we are constantly  
21 giving them training, realizing that we have a  
22 college that's doing these two components for  
23 not just our Comanche people, but for anybody.  
24 And at 2002 our college was implemented, at  
25 2003, we probably had 40 students. We

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1 currently have 400 students, 200 FTE.

2           So we see that the opportunities  
3 are coming from the individual, not because we  
4 make it available, but because the demand for  
5 training or skill building. And the students  
6 are coming there. Let me tell you, we have  
7 graduated probably 30 students this past year  
8 with associate degrees in a variety of  
9 disciplines. So that means that our  
10 population is looking toward us to be the  
11 leader with regard to how can we sustain the  
12 economy. I have no place to go but to our  
13 casinos.

14           And then we reached out in a  
15 variety of communities. Say we bring in Al  
16 Green, all of a sudden the black community  
17 comes into our establishment. We bring in  
18 someone like Percy Sledge or Smokey Robinson,  
19 and that reaches out to other members of our  
20 community.

21           When Smokey Robinson came, two  
22 weeks later I was at a board meeting with  
23 McMann Foundation Hospital board. And one of

24 the noted lawyers in the community, said,

25 "Hey, Wallace, I was at the concert with

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1 Smokey Robinson. When you gave him that  
2 Pendleton jacket and everybody screamed," he  
3 said, "I screamed right along with them." I  
4 never figured that attorneys would come to our  
5 facility.

6 But we have had to do a lot of  
7 things with regard to our facility. We had to  
8 enhance it to make it feel like it's an  
9 entertainment industry and establishment, and  
10 not necessarily a place of ill repute or  
11 gambling, because there is a connotation with  
12 regard to gambling.

13 Anybody that goes and gambles they  
14 say, "Well, you know, you are there to hope  
15 you win the big one." But, "No. I am there  
16 to have fun." And I have had many people tell  
17 me, "I lost some money at your casino, but I  
18 enjoyed it." "Good. Come back. Maybe one of  
19 these days you will be lucky." But the whole

20 situation is we did our effort to reaching out  
21 to a wide variety of individuals.

22           During this meeting I was talking  
23 to you about that we sat down and had a  
24 dinner, the Governor's representative, former  
25 college president Don Davis came down as

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1 Governor Henry's representative. I made a  
2 presentation like I am doing here with you.  
3 Fifteen, twenty minutes into the meeting after  
4 I was finished, he said, "Wallace, where were  
5 you ten years ago?"

6           Well, I pride myself on being able  
7 to assess what's the needs of the local  
8 communities are. My undergraduate is in  
9 psychology and most of my undergraduate was  
10 done at Cameron, the local community college,  
11 at that time a Junior College, and then  
12 Northeastern State College, then Oklahoma City  
13 University. My masters is from Harvard  
14 University. My specifics are in child/human  
15 development. So I understand the psychology

16 of our minds. Many times you have to think  
17 about a community, how they feel.

18 I'm very concerned, because we  
19 reached a level of comfort whereas now our  
20 Indian people can go into establishments,  
21 restaurants, hotels and not be classified as  
22 criminals or not have that distinction of  
23 being, "Oh, they are less fortunate." They  
24 realize now that our tribal member has money  
25 and that money equates to resources.

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1 In order for a community to be  
2 sustained and retail businesses to be  
3 sustained, they have to welcome a person that  
4 might have that money in order to, you know,  
5 keep their businesses afloat.

6 One time on Friday evening a State  
7 Representative Ray McCarter from Marlow,  
8 Oklahoma, having a Cotton County district,  
9 called me at home at 8:00. He said, "Chairman  
10 Coffey, I want to thank you for opening that  
11 casino in Walters. It has done a great impact

12 for me in my position as a politician, but not  
13 only me but for those individuals who need the  
14 jobs and need the income."

15 Southwest Oklahoma, we're going  
16 through a serious drought now. We have over  
17 many, many years, the average American farmer  
18 being the highest level of employment and it  
19 was a position of character and integrity.

20 Today it's not the same. You see our farmers  
21 crops are not growing. You see them selling  
22 their cattle. And I even see the ponds dry up  
23 and I see cows with chapped lips because they  
24 are sucking mud.

25 The whole thing is that's an

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1 economy that we want to reach out to. We have  
2 got their young children. We have got their  
3 wives employed within our casino. I have seen  
4 southwest Oklahoma economy being sustained  
5 where everybody is coming to the casino and  
6 saying, "Thank you. We appreciate what you  
7 have done."

8           But those individuals that come  
9 into the casino, if they see your Class II  
10 games as it is being preferred, they are not  
11 going to have an interest in it. I have some  
12 customers tell me, "We want faster machines.  
13 We don't want slower machines." If they get  
14 slower machines, you know what's going to  
15 happen?

16           All my effort of trying to create  
17 a more positive atmosphere is going to go down  
18 the drain, because those individual that would  
19 much rather go to Las Vegas, but you have got  
20 something right there in your local community.  
21 The prices are not extremely high. We have  
22 got nice food. We've got a local bar. They  
23 are starting to look at blackjack and Texas  
24 Hold'em with the place for them to entertain  
25 themselves.

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1           But they are learning a lot of  
2 things about it, too. They are learning about  
3 the industry. A lot of people don't know it.

4 So they figure, "Well, if I can learn  
5 something down here in Lawton, when I go to  
6 Las Vegas, I can get in with the big boys."  
7 Isn't that something that we all want?  
8 Wouldn't I like to see a winner from southwest  
9 Oklahoma on the national Texas Hold'em on  
10 television that I watch every once in a while?  
11 I don't play it, but I watch it.

12 So, full circle, all I'm saying is  
13 the impact that it would have on southwest  
14 Oklahoma would be devastating, devastating to  
15 the fact that I will probably lose employment.  
16 I will probably loss jobs that we have created  
17 over the past few years. And within the short  
18 time frame of three years we have structured  
19 ourselves, too.

20 Mr. Codopony is a chairman of our  
21 Comanche Nation Gaming Commission. He comes  
22 from a regulatory industry, heavily regulated  
23 by the, what is it, electric --

24 MR. CODOPONY: Park. My day job,  
25 so to speak, is in the electric industry.

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1           CHAIRMAN COFFEY: So, what I am  
2 saying is in order for the Comanche Nation to  
3 reach that level of expertise, there are some  
4 individuals that we have to call back home.  
5 There are some individuals that are college  
6 minded such as Jarrett Jackson that we bought  
7 back home in order to assist us in our  
8 growing.

9           There is Mr. Plata, who graduated  
10 from Texas Wesleyan University. He's got the  
11 ability to practice law in Texas, and when he  
12 took his Bar in Oklahoma, he passed it the  
13 first time. So our Comanche Nation is  
14 growing. And it's growing so fast that we  
15 have to promulgate laws of our own. Not only  
16 with the gaming industry, but we also have a  
17 funeral home.

18           And we're asking the funeral home  
19 director to get an advisory group, an advisory  
20 group that knows the industry, an advisory  
21 group that knows the Comanche cultural  
22 practices with regard to burial, an advisory

23 group that can help us be better than where we

24 are.

25 So, we're looking at our gaming

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1 industry. How can we about be better? I

2 don't think we can be better if we don't

3 continue the practices in the gaming. Because

4 you said one thing. You said that the tribes

5 should be the primary regulators. If you

6 don't allow us that, then we're not going to

7 be able to move forward with regard to my

8 personal mission.

9 I may not win my re-election, but

10 I know that I have a committee that's

11 committed. And those individuals are not

12 going to let it go back, you know, to where it

13 once was.

14 And I think the number one thing

15 that we have learned has been surveillance.

16 We didn't realize that surveillance is, you

17 know, everything around us these days. I

18 mean, we're being watched, you know, probably

19 by satellite on your vehicles where everybody  
20 knows where you are at. But we have to be  
21 able to monitor ourselves. And we manage our  
22 own facilities. We manage our own casinos.  
23 And one of the things I'm going to probably  
24 say is we have close to 75 percent Comanche  
25 and Indian employment within our facilities.

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1 And that by itself, I see people  
2 driving new vehicles now. And it makes me  
3 smile and feel good, because their children  
4 are being taken care of.

5 One of the things with regard to  
6 Class II gaming, and I mentioned to you that  
7 the biggest impact will be the  
8 disproportionate loss of jobs. I really can't  
9 allow my tribal members to go unemployed. I  
10 really can't see that to allow them to have a  
11 loss of jobs and income, because a big portion  
12 of my population is single-parent families.  
13 We have got probably 20 to 25 percent of our  
14 population single-parent families.

15           And I know how difficult it is,  
16 because I was raised in a single-parent  
17 family. And I know how difficult my mother  
18 had, because she was trying to instill in me  
19 an education. And I am very proud, because I  
20 have two children that are both college  
21 graduates. But they live in different  
22 locations, one in Tulsa, one in Santa Fe, New  
23 Mexico, because there is no opportunity there  
24 locally.

25           And I agree with the mayor, one of

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1 these days when you graduate from college,  
2 there should be an opportunity waiting for you  
3 right there locally. And I'm looking at  
4 sometime within the next few years, any of our  
5 college students, if they have a position or  
6 they are going through a position that we  
7 would need in the future, I would be willing  
8 to offer them an agreement, a compact. I will  
9 pay for your college, but you come back and  
10 give me two years of your effort and your

11 expertise so we can advance a little bit more.

12           One of the biggest efforts that I  
13 have undertaken over the past three years is  
14 to increase our land holdings. There was a  
15 time we probably had -- what would be our  
16 acreage at the complex? Anybody want to  
17 guess?

18           MR. NARCOMI: Acreage at the  
19 complex? I'd say at least 35.

20           CHAIRMAN COFFEY: I would say 85.

21           MR. NARCOMI: Okay.

22           CHAIRMAN COFFEY: But that's our  
23 whole tribal land holdings. I have increased  
24 that by 200 percent in three years. We have  
25 two 160-acre parcels in southwest Oklahoma

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1 near Red River. We have a 60-acre parcel that  
2 is being used by our environmental impact  
3 group. And we have 115 acres south of our  
4 casino in Lawton that we are looking at  
5 expanding.

6           You cannot expand unless you have

7 a land base where future development is going  
8 to be and exist probably within the next five  
9 to ten years. And we want to be a part of  
10 that development.

11 We have a stakeholder position in  
12 southwest Oklahoma. It's not because I say  
13 so, but because there are other industries  
14 that say so, like Goodyear, like Fort Sill  
15 military installation. They come to us and  
16 say, "Wallace, we need to talk."

17 The Memorial Foundation has  
18 taken -- the HOSPA has taken one of my  
19 initiatives about being southwest Oklahoma and  
20 not being so critically, you know, stuck on  
21 Lawton, Oklahoma. So their efforts now is to  
22 look at Altus, look at Chickasha, look at  
23 Duncan and try to create a cancer center that  
24 is truly for southwest Oklahoma instead of  
25 reducing the resources in those communities.

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1 So whenever they look to us as  
2 being a stakeholder, that means my mission is

3 accomplished, my job has been complete.

4           And our land base has really  
5 been -- probably a lot of our tribal members  
6 do not know that we have some really good land  
7 holdings. But there was an elderly lady to  
8 sit there one time before our business  
9 committee. And she was kind of shaking when  
10 she was on her walker. "You have got to buy  
11 that land. They're not making any new land.

12 I still live on my original trust allotment."

13 And she said, "You get it and make sure it  
14 stays for our Indian people in the future."

15           Well, you know, we do have tribal  
16 members that come to us and want to sell their  
17 land. You know that, Chuck. I mean,  
18 sometimes they have difficulties, but if they  
19 sell it to the tribe we can maintain it in  
20 trust. And at some point in time we can use  
21 it for economic development reasons.

22           We have yet to see what we can do  
23 right in Lawton, Oklahoma, which is central to  
24 southwest Oklahoma. The airport authority is  
25 starting to bring in another air carrier,

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1 because, hey, we travel. We've got 1500  
2 employees, approximately, that go places, and  
3 we don't need to be driving to Oklahoma City  
4 all the time.

5 We're looking at creating another  
6 facility right next to one downtown so our  
7 transportation department, we have  
8 approximately eight buses and vans that carry  
9 handicap and individuals to various parts of  
10 the community for shopping, for housing needs,  
11 for clothing, for school, whatever.

12 And I'm going to have to move that  
13 transportation department into Lawton, because  
14 where we're at at the complex, it may be just  
15 twelve miles a way, but the cost of gasoline  
16 is going to be very difficult.

17 Now, I'm saying all of this is  
18 based upon the economy as it's stabilized  
19 right now. If we do any changes, I just don't  
20 want the fingers pointed to us that we didn't  
21 regulate it to the degree, and I wasn't firm

22 enough and strong enough to you to say this  
23 isn't going to work. And I have to say that,  
24 because it's not going to work.

25 We have individuals that really

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1 enjoy the games. I go to eat in restaurants  
2 and have people come up to me and tell me,  
3 "Hey, I really enjoyed myself. I'm learning a  
4 little bit about it." But the best thing is  
5 our employees. When they hand you out some  
6 blackjack cards and they look at you and they  
7 take your money. I said, "Are you making any  
8 money from me?" You know, "You bet." They  
9 are learning the fairness of it. And when  
10 somebody wins, they don't mind. They don't  
11 mine.

12 So that's what I wanted to share  
13 with you. I didn't mean to take all this  
14 time. I know that Oscar and maybe William and  
15 maybe John, and our rising star over here,  
16 Jarrett. He's one of those individuals that I  
17 know that can be here for a long time. And

18 I'm surprised he doesn't have his laptop out  
19 here getting things all taken care of, because  
20 that's their element.

21 Mine, I'm still computer  
22 challenged, but I can still think on my feet  
23 pretty good. So I just wanted to say thank  
24 you for allowing me this time.

25 Are there any questions that you

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1 may have?

2 CHAIRMAN HOGEN: Thank you.

3 CHAIRMAN COFFEY: I answered  
4 everything?

5 CHAIRMAN HOGEN: Let me just  
6 comment on one of your observations. We  
7 admire the success the Comanche has enjoyed  
8 and the spirit in which you have done all of  
9 that. We certainly don't want to inhibit that  
10 particularly unnecessarily.

11 We think it's important that there  
12 be a clear line between Class II and Class  
13 III. And part of, you know, what we have said

14 in our proposed regulations addresses the  
15 speed of the play. How quickly can you play a  
16 game?

17 But we don't say that because we  
18 deliberately want to slow it down, make it  
19 less fun or less attractive to people that are  
20 looking for entertainment, but rather we have  
21 read the Indian Gaming Regulatory Act very  
22 carefully. We have looked at the legislative  
23 history.

24 And I think one of the things  
25 distinguishes Class III from Class II is it

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1 can't just be the machine. Players have to be  
2 participating. Just like a paper bingo game.  
3 If you're not paying attention, you can sleep  
4 your win and somebody else that you are  
5 competing with will win.

6 In order to do that, there has to  
7 be a little interval there for that  
8 participation to occur. What's the right  
9 amount of time? I think the game that could

10 be played under the regulations that we  
11 propose would be about a ten-second range  
12 there to start in the game. Is that too long  
13 or is that long enough? We're trying to get  
14 to the right place.

15 We think that these games that are  
16 being played so many places as Class II where  
17 the player just pushes the button once and the  
18 machine does all the rest has crossed that  
19 line. It's become an electronic facsimile of  
20 a game of chance, because there is no player  
21 participation.

22 So we're trying to be true to what  
23 the act says as we understand it. And it's  
24 not slowing it down for the sake of slowing it  
25 down. It's just trying to, you know, keep

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1 with that participation element.

2 So, will carefully consider the  
3 success you have enjoyed, and we will be  
4 concerned about not, you know, fouling that  
5 up. But we would be happy to hear other

6 comments regarding the specifics of what we  
7 have proposed, if you have those.

8 CHAIRMAN COFFEY: Well, one of the  
9 groups that are absent here is the customer.  
10 And if you are going to do that, I would like  
11 for you to get a group of customers to let  
12 you -- let them make the decision as well,  
13 because they are the ones that's going to be  
14 coming into the facility. And if they don't  
15 come, the answer is going to be there.

16 CHAIRMAN HOGEN: Well, I wish that  
17 what we could do would be design a game that  
18 will be the most fun and the most profitable.  
19 Unfortunately, that's not the framework we're  
20 working within. We've got these rules that  
21 we're supposed to write some standards for.  
22 They say there is a difference. And we're  
23 just trying to say, more specifically, what  
24 that difference is.

25 CHAIRMAN COFFEY: Well, I think if

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1 you could go back and understand the history

2 of this great state, next year we'll celebrate  
3 100 years with regard to the State of  
4 Oklahoma. But if you can imagine -- let me  
5 give you a little bit of a scenario for  
6 myself, you know. I was born in a community  
7 southwest of Lawton, Oklahoma, a community  
8 called Paxton, Oklahoma.

9           When I was in the second grade I  
10 was in one row here. First grade was one row,  
11 second row is second grade, third row is third  
12 grade, all by the same teacher. You go across  
13 the hall. Fourth grade one row, fifth grade  
14 one row, sixth grade one row, all by one  
15 teacher.

16           I was classified at that time as a  
17 Mongolian, because there was only two distinct  
18 classes of race at that time, black and white.

19           And then in the sixth grade I  
20 became a Caucasian, because it was evident my  
21 characteristics were not the same as a  
22 Mongolians. And in junior high I became an  
23 American Indian. In high school I became a  
24 Native American. When I was working on my

25 undergraduate education I became an indigenous

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1 group. And when I got my master's degree,  
2 I've become a sovereign nation. Today I'm  
3 other.

4 One of the situations I'm seeing  
5 is if we don't make some decisions for  
6 ourselves, our future will be made for us.  
7 That's what you're telling me. The state of  
8 Oklahoma has a football team called the  
9 Oklahoma Sooners. I follow that football  
10 team, you know, even if it's losing.

11 And people have asked me, "What's  
12 a Sooner." Well, my grandfather signed a  
13 treaty of Medicine Lodge in 1867. They  
14 relinquished all of that territory in  
15 southwest Oklahoma where the land run and some  
16 of these settlers came. And my grandfather  
17 saw them and watched them when they stuck a  
18 land claim on the territory that was once  
19 ours.

20 So how do I tell a person that

21 doesn't know anything about a Sooner, "Oh,  
22 they are the ones that took our land," but yet  
23 I am still supporting them. Now we are doing  
24 the same thing with government.

25 But the Indian tribes in the State

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1 of Oklahoma have learned how to become very  
2 political. We have created a political  
3 caucus, because of the gubernatorial coming  
4 up. You know, we're saying to the Governor,  
5 "Sure, you are eyeing the Indian tribes  
6 because they have the resources. And if you  
7 allow them to have the resources, they would  
8 be instantly done. Indian tribes would not  
9 have that opportunity to regulate, as you  
10 mentioned at the beginning.

11 So we have to think of where we  
12 have been and where do we want to go. 1992 we  
13 celebrated 500 years of the quin century. I  
14 said, "Hey, I haven't forgotten the injustices  
15 of the past 500 years, but I'm going to be  
16 around here for another 500 years, so I have

17 got to make sure that, you know, the futures  
18 of those yet to come and those yet unborn will  
19 have an opportunity to come into a world of  
20 love like I was raised.

21 So, the State of Oklahoma is going  
22 to come to you, because they have the ability  
23 to say, "Hey, we can treat the Indians better  
24 than you can." That's not the way it is.  
25 It's not going to be that way until we become

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1 equal in partnership.  
2 You know, they are always talking  
3 about a level playing field. Now we have a  
4 level playing field in southwest Oklahoma and  
5 they don't mind. They are coming to us  
6 saying, "Wallace, can you help support this?  
7 Can you do an outdoor concert on a Saturday  
8 evening and our motorcycles will do a run?"  
9 And, "Can they finalize their run at the  
10 casino?" "Sure. But we're going to limit  
11 your alcohol sales and we're going to charge  
12 you a tax so we can receive some benefit from

13 it, too." They don't mind.

14           So now, one of the best things  
15 that I have enjoyed over the past three years  
16 is the fact that a community is a community,  
17 and we're included in that community.

18           Now, the state is different. Now  
19 we're not giving equal opportunities in the  
20 state. You know, I remind myself many times,  
21 because I was growing up the same time as  
22 Chuck was growing up. In 1963 I had a serious  
23 impact whenever I heard an assassination of a  
24 president. I was a senior in the classroom.

25           And as I walked home that day, I

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1 will never forget, "How can we in this modern  
2 world allow a person to be assassinated."  
3 Then I know exactly where I was in 1968 when  
4 the man who had a dream was assassinated.  
5 Then I watched my ancestors, my uncles when  
6 they went to Washington in the seventies,  
7 because we didn't ask for Affirmative Action.  
8 We didn't ask for equal opportunity. We asked

9 for the American Indian Self-Determination and  
10 Education Assistance Act. We asked for  
11 American Indian religious freedom and we got  
12 it. We wanted to be ourselves. And we have  
13 had 35 years of these laws that have enabled  
14 us to have some empowerment for ourselves.

15 What this regulation is doing is  
16 not giving us that same type of consideration.  
17 We just passed the 25 years of the American  
18 Indian Religious Freedom Act. Why is it that  
19 we have to have the opportunity to have a law  
20 in order to practice our own religion?

21 And then the NAPRA (ph.) laws.  
22 You know when I see a person or veterans  
23 carrying in those flags, the POW/MIA flags, we  
24 have over 100,000 remains in the nations  
25 museums and educational institutions that are

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1 sitting in boxes. Those are our POWs. Those  
2 or our MIAs. We need them back so we can give  
3 them a proper burial.

4 Now the consideration of the

5 National Indian Gaming Commission, you allow  
6 me a chance to visit and talk to you. Well,  
7 I'm sure that each one of our colleagues here  
8 have something to say, but they don't have the  
9 position that I hold. They don't have the  
10 position that I had, my ancestor had.

11           You have seen this movie "Dances  
12 with Wolves." As I said, my great grandfather  
13 signed that treaty. I'm a descendant of Ten  
14 Bears. And I'm still trying to abide by his  
15 thoughts, even though it's 150 years later.

16           How did he try to sustain an  
17 economy for his tribe? He did it through  
18 horses. He did it through trade and barter.  
19 Now I have to do the very same thing. I sit  
20 down here at the table and try to trade with  
21 you and barter with you.

22           So, Oklahoma has started to  
23 recognize the future of Indian nations. But  
24 one thing I would like to say, can we, as  
25 Indian nations, if we sat down and did an

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1 intertribal cooperative agreement, can we  
2 develop our own Indian Sam's club in here? I  
3 think we can. But you are challenging us to  
4 work together in order to get something  
5 accomplished that would benefit all Indians in  
6 this state. And if we did an Indian's Sam's  
7 Club with an outlet Tulsa, one in Ada, one in  
8 Ponca City, one in Clinton, one in Lawton  
9 utilizing our CDIV card, our Indian men and  
10 women, our children can go and buy whatever  
11 they need and can help them.

12 Because I spend over 800,000 a  
13 year at Wal-Mart. Why can't we have our own  
14 industries and facilities that we can sustain  
15 as well? Because if we're going to grow, we  
16 have to think like we are going to be  
17 visionaries. So that's the way it's been for  
18 me. Somebody has to take the lead.

19 And let me tell you, I have  
20 received my criticism over the past three  
21 years. You know, I have got a hump on my  
22 shoulders back here. It's an invisible area  
23 of hump of calluses that people say behind my

24 back. But whenever they need help, who do  
25 they come to? They come to me. I'm not a

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1 social services director, but my tribal  
2 members would think so. They think he better  
3 be there when I come to see you, too, because  
4 your door should be open, and it better be.

5 So, anyway, when it comes to Class  
6 II regulation, I know there's going to be a  
7 long way to go. But we're a group of Indian  
8 people in southwest Oklahoma, Kiowa, Comanche,  
9 Apache. Three tribes signed a treaty of  
10 Medicine Lodge together. And in that process  
11 we don't create problems. We don't go and  
12 create issues. We're just trying to do  
13 something for my ourselves. What little we  
14 can, any success we take pride in it, because  
15 we have helped it. Like I said, mission  
16 accomplished. Whether I win re-election or  
17 not, I know that I have done my task.

18 Anybody want to --

19 MR. CODOPONY: I have a few

20 comments.

21 CHAIRMAN COFFEY: Okay, Oscar.

22 MR. CODOPONY: Coming at this from

23 the gaming commission perspective, I served a

24 short stint on the Comanche Business

25 Committee. And one of the last pieces of

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1 legislation that I helped push through was the

2 revision of our gaming ordinance. There is a

3 lot of discussion about the ordinance being

4 modelled after NIGC regulations,

5 recommendations.

6 We feel like that, you know, the

7 ordinance will give us the proper division,

8 proper structure we need to ensure the success

9 and continued flowing of our gaming revenues.

10 But from the Gaming Commission perspective,

11 when I look at that and I take the comments

12 that have been made about looking at IGRA and

13 looking at some cases, there are some cases

14 that have been won that identify Class II

15 gaming. There have been some previous rulings

16 by the NIGC itself that identify certain  
17 machines as Class II that, under the proposed  
18 changes in Class II gaming, these same  
19 machines that either judicially or regulatory  
20 were defined as Class II gaming previously are  
21 now going to be defined as something else.

22 And from the perspective of the  
23 Gaming Commission, I just mentioned that, you  
24 know, that our ordinance was passed in  
25 December. Our commission was only finalized

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1 several months ago. So we look to NIGC for  
2 direction. We look to NIGC to say to previous  
3 court cases, previous NIGC decisions to say  
4 this is Class II. All of a sudden that has  
5 evaporated in front of us. We are shooting at  
6 a moving target when we are trying to be a  
7 regulatory body that adheres to strict  
8 standards.

9 And if those standards continue to  
10 change, that doesn't give us much reassurance  
11 as we move forward. And, again, I mentioned I

12 know gaming has been around for quite a while,  
13 but from our perspective and our structure, we  
14 have only been organized for a short period of  
15 time and all of a sudden the rules change on  
16 us. I don't think that's fair and I don't  
17 think that's going to be conducive to, as  
18 Chairman Coffey said, the continuing  
19 generation of the revenue stream that we see  
20 in southwest Oklahoma.

21           The other thing, looking at from  
22 the gaming commission perspective is the fact  
23 that one of the reasons -- Chairman Coffey  
24 talked about his personal mission to ensure  
25 the financial integrity of the tribe. One of

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1 the reasons that I became involved in public  
2 service from a tribal perspective is that I  
3 looked at this point in time within our own  
4 nation as being very historic. We are on the  
5 verge of a lot of economic success. But that  
6 success to continue has to, in my opinion, has  
7 to be structured.

8           And getting in on the ground floor  
9 of this gaming ordinance, getting on the  
10 ground floor of the implementation of a lot of  
11 structure would be my way of getting into the  
12 tribe that helped rear me up and instill my  
13 values as I grew up. One of the issues that I  
14 have grown up with in the eighties and  
15 nineties through my day job, my electric job  
16 was dealing with tribes as sovereigns. As an  
17 employee of the tribal -- of an electric  
18 utility -- I'm sorry. Not a tribal utility --  
19 but an electric utility, I had to go out and  
20 deal with tribal government as a sovereign.

21           One of the exciting things to me  
22 about working with the gaming commission was  
23 we were going to approach this from a  
24 Sovereign perspective. That sovereignty, in  
25 my opinion, has been taken out of our hands,

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1 because these games that we were going to  
2 regulate and have deemed Class II are going  
3 to -- the regulation of those are going to be

4 taken away from us. We lose that sovereignty.

5 Now, we all understand our  
6 sovereignty depends on previous documents and  
7 previous relationships with the United States.

8 But that self-regulation, that  
9 self-determination aspect of gaming commission  
10 is being taken away from us. Like I said,  
11 from a gaming commission perspective, those  
12 issues weigh real heavily on my mind.

13 And I hope that you consider what  
14 is going on here. Because, also, even though  
15 it is a non-regulatory function, one of the  
16 reasons a gaming commission exists is to  
17 ensure those gaming revenues are totally  
18 accounted for and totally passed to tribal  
19 government for their use for the general  
20 population.

21 The adverse impact that the  
22 proposed changes in Class II gaming is going  
23 to have on those revenues can't help but  
24 concern me, not only as a gaming commissioner,  
25 but also as a tribal citizen. I hope that you

1 will seriously consider these changes before  
2 they are implemented. Thank you.

3 CHAIRMAN HOGEN: Thank you.

4 MR. PLATA: Chairman Hogen, has  
5 there been an evaluation or assessment of -- a  
6 carveout of what the Class II revenue  
7 generation of Class II games are as opposed to  
8 overall gaming, and is that going to be  
9 chaired with tribes?

10 CHAIRMAN HOGEN: Yes. To the  
11 degree that we can gather that information.  
12 Right now we probably know more about the  
13 numbers, Indian gaming revenues than anybody  
14 else, because we get copies of tribal gaming  
15 audits. But not all of those audits  
16 distinguish between Class II and Class III  
17 revenue. So, while we maybe know the most, we  
18 don't know specifically how much is Class II  
19 and how much is Class III.

20 But we have made some pretty good  
21 estimates, and the estimates -- and that's  
22 consistent with some other close observers of

23 the industry. And so working from that base,  
24 we're going to try and look at this more  
25 carefully.

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1           Where a challenge exists, of  
2 course, is there is, we think, 80 percent of  
3 the gaming that's Class III and the other 20  
4 percent that's being played at Class II. But  
5 a significant portion of that is being  
6 generated by one-touch games that, in my view,  
7 would not be Class II.

8           So, just how much of that we  
9 include as, you know, Class II -- we're going  
10 to crunch the numbers in a number of ways, not  
11 because we want to manipulate them, but there  
12 are probably several ways to look at them.

13           And I think in our public hearing  
14 that we will hold on the 19th of September,  
15 much of that information will be available.  
16 And if it's in report form or whatever, before  
17 or after that, I'm sure we will share that.

18           MR. PLATA: Thank you.

19 Mr. Chairman, Chairman Coffey mentioned a  
20 while ago, you know, our economy depends on  
21 our Class II games right now. As he also  
22 mentioned, we feel like the game as proposed  
23 isn't going to be competitive.

24 So you are leaving us in a  
25 situation to use compact games. When our

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1 compact is up and we renegotiate with the  
2 State, it leaves us in a poor bargaining spot,  
3 because we don't have the fall back of the  
4 Class II games anymore. So, how does that  
5 promote our economic self-determination, that  
6 idea of leaving us with no alternative besides  
7 to compact games in.

8 CHAIRMAN HOGEN: Well, we think  
9 that the act intended to bring clarity and, in  
10 part, it created a commission to write  
11 standards to add to that clarity, and that the  
12 industry will better be served once everybody  
13 knows what they can invest in and play as  
14 Class II without, you know, the Justice

15 Department or somebody else coming along and  
16 saying you can't do that.

17 We don't strive to come up with a  
18 permissible category that's not fun, not  
19 profitable, not fast. We hope that we will  
20 accommodate that. But we also need to guard  
21 against putting it so far across that  
22 facsimile of a game of chance line that it  
23 all, you know, will be subject to greater  
24 risk.

25 We promised our court reporter she

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1 would be done at 6:30. And we have passed  
2 that time here.

3 CHAIRMAN COFFEY: She has worked  
4 with us before.

5 CHAIRMAN HOGEN: If there are  
6 things that you would like to say that haven't  
7 been said, we also invite written comments as  
8 well.

9 CHAIRMAN COFFEY: The court  
10 reporter has worked with us before, an she

11 knows Indian time.

12 CHAIRMAN HOGEN: Okay.

13 (Proceedings concluded.)

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1 CERTIFICATE

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3

4 STATE OF OKLAHOMA )

) SS:

5 COUNTY OF OKLAHOMA )

6 I, Trena K. Bloye, Certified Shorthand

7 Reporter for the State of Oklahoma, certify that the  
8 foregoing transcript of proceedings taken by me in  
9 stenotype and thereafter transcribed is a true and  
10 correct transcript of the proceedings; that they  
11 were taken on August 8, 2006, at the Cox Convention  
12 Center, Oklahoma City, State of Oklahoma; that I am  
13 not an attorney for nor a relative of any said  
14 parties, or otherwise interested in the event of  
15 said action.

16       IN WITNESS WHEREOF, I have hereunto set my  
17 hand and seal of office on this the 11th day of  
18 August, 2006.

19

20

21

\_\_\_\_\_  
Trena K. Bloye  
Certified Shorthand Reporter  
for the State of Oklahoma

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